

**COMMITTEE OF INQUIRY: PROCEDURES FOR RECRUITMENT OF HONORARY POLICE OFFICERS
(P.67/2001) - REPORT**

**Presented to the States on 29th May 2001
by the Home Affairs Committee**



STATES OF JERSEY

STATES GREFFE

180

2001

P.67 Rpt.

Price code: B

REPORT

Background

1. This report provides members with information in relation to Deputy Le Hérissier's proposition (P.67/2001) to convene a Committee of Inquiry into the so-called 'Holland affair'. In the aftermath, the Home Affairs Committee began a consultation process to consider possible criteria for disqualification from election to the Honorary Police or appointment as a States of Jersey Police Officer. Two consultation meetings have been held involving the following -

Deputy Alastair Layzell	President, Home Affairs
Mr. W. Bailhache Q.C.	H.M. Attorney General
Constable M. Pollard	Chairman, Comité des Connétables
Mr. G. Power	Chief Officer, States of Jersey Police (second meeting only)
Centenier D. Webber	representing Centeniers' Association
Vingtenier M. Couriard	Chairman, Vingteniers'/CO's Association
Mr. S.W. Austin-Vautier	Director, Home Affairs

2. From the above, it will be apparent that all levels of the Honorary Police, the States of Jersey Police and the Attorney General have played a full part in discussions to date. The President of the Legislation Committee has also been kept informed. Discussions have centred on reviewing current practice and developing new procedures for assessing a person's suitability for election or appointment to the Honorary Police or States of Jersey Police respectively.

Progress to date

3. The Attorney General considers that, although the job of the States and Honorary Police officers is not the same, there are sufficient similarities that, as a general rule, the principles which should apply to disqualifying honorary officers should apply equally to the disqualification of States Police officers and vice versa. Acting on the Attorney General's advice, the consultation group has drawn up a shortlist of offences which amount to an absolute bar for the purposes of serving as a States or Honorary Police officer. Furthermore, the Attorney General thinks it is unnecessary to create a class of offences which would normally not act as a bar to election or appointment. It follows that all remaining offences are those that would not automatically bar an applicant.
4. The Attorney General has made two further points. Firstly, it would be advisable to extend the rules to "corresponding offences in other jurisdictions." Secondly, he has written to the Comité Chairman in order to progress the idea of a standard application form for Honorary Service. Finally, a decision will need to be taken as to whether any system to be adopted should have the force of legislation or whether directions issued by the Attorney General would be adequate for the purpose.
5. The disqualification criteria, application procedure for honorary service and the need, or otherwise, for legislative change are covered in the following sections.

Disqualification criteria

Factors to be taken into account

6. The following factors need to be taken into account by the Reviewing Authority (see paragraph 7) in deciding whether to disqualify an applicant from election to the Honorary Police or from appointment as a States of Jersey Police Officer. Some of the factors will be obvious from information revealed by the applicant or examination of a criminal record; however, other factors may need further investigation, such as a review of the original case papers -
 - (a) *Age when offence committed* - some offences are associated with young offending and levels of responsible behaviour often increase with age. Examples of offences in this category are breach of the peace, drunk and disorderly, urinating, possession of class 'B' drugs, minor road traffic offences such as speeding. An applicant's conviction profile would indicate whether such offences were isolated and age-related.
 - (b) *Time interval since offence(s) committed* - an applicant may declare an offence(s) committed many years in the past. This may be related to behaviour in youth or an isolated lapse in adulthood committed, say, 15-20

years ago.

- (c) *Severity of sentence* - care needs to be taken in examining the sentence awarded as an indicator of the particular circumstances of the case. For example, sentences for assault can range from a binding-over order to terms of imprisonment thus reflecting the seriousness of the offence, aggravating/mitigating factors, antecedents, age, remorse, etc.
- (d) *Aggravating factors* - there may be aggravating factors associated with an offence which would sway the Reviewing Authority towards disqualification, e.g. dishonesty, abuse of authority or breach of trust, offences against the Police, violent conduct, holding a position of responsibility.
- (e) *Special circumstances* - any that might be claimed by the applicant and could be verified by the case papers, e.g. extreme provocation, state of mind at the time.
- (f) *Present character/standing in the community* - an applicant may be able to prove reform over a substantial period of time and/or exemplary service to the community. Such factors will not prevent disqualification in extreme cases but may tip the balance in favour of the applicant where suitability for election is judged to be marginal.
- (g) *Frequency of offending* - there may be occasions when the frequency of offending is such that, even though the individual offences would not attract automatic disqualification, the combination of offences tips the balance.
- (h) *Giving evidence in a criminal trial* - prospective officers having criminal convictions involving dishonesty would be immediately susceptible to hostile cross-examination in any defended criminal trial.

Reviewing Authorities

- 7. The Reviewing Authority would have the responsibility for deciding whether or not an applicant should be disqualified from election or appointment. The Reviewing Authority for the Honorary Police would be the Attorney General, whilst that for the States of Jersey Police would be the President, Home Affairs until the Police Authority has control of the States Police.

Disqualifiable offences - those attracting automatic disqualification

- 8. The following offences would amount to an absolute bar for the purposes of serving as a States or Honorary Police Officer -
 - Murder
 - Abduction
 - Kidnapping
 - Blackmail
 - Perjury
 - Robbery
 - Perverting the Course of Justice
 - Sexual offences
 - Corresponding offences to the above in other jurisdictions.
- 9. Manslaughter and drug trafficking are not included in the above list. The Attorney General considers that there may be special considerations to be taken into account concerning such offences and that disqualification should therefore remain discretionary.

Other offences - those where discretion could be exercised

- 10. Convictions for other offences would not normally attract automatic disqualification for election or appointment. For such offences, the appropriate Reviewing Authority would be those specified at paragraph 7.

Election to the Honorary Police

Vingteniers and Constable's Officers

11. Vingteniers and Constables' Officers are elected at a Parish Assembly and require only a proposer and seconder. If more than one candidate wishes to stand, an election takes place on the night. The successful candidate is then warned for swearing-in before the Royal Court (now usually ten days hence).

Centeniers

12. Anyone can stand for election as a Centenier, right up to the evening of a Parish Assembly, provided they are supported by a proposer, a seconder and eight signatories, all of whom must be ratepayers in the parish. On the night of the Parish Assembly, the nomination form is handed to the Constable. If there is only one nomination, a period of 20 minutes is allowed to pass following which, in the absence of further nominations, the nominee is elected to the post. If more than one candidate wishes to stand, a further Assembly is convened for three weeks hence, when an election takes place. Successful candidate(s) are then warned for swearing-in before the Royal Court (now normally three weeks hence).
13. This process means that a Constable could not be sure that a prospective Centenier meets the Attorney General's acceptability criteria. However, several parishes have introduced a system whereby an Honorary Police application form is completed and applicants are subsequently interviewed by the Constable. This affords the parish an opportunity to identify those who are unsuitable to hold office. This process assists the election process, but has no foundation in law.

Revised process

14. The consultation group recognised that the procedures which have been followed in dealing with nominations for the Honorary Police have been formalised and considerably improved in the last five years, and largely therefore meet the concerns which have been expressed over the nomination of Holland to the Honorary Police in 1993. However, it is recognised that it would be desirable to have a standard application form amongst all parishes, and a sufficient delay built in to the system to ensure that the necessary checks can be made, even in the relatively unusual event of a person putting his name forward for election to the honorary service on the night of the election. To that end, the Attorney General has written to the Chairman, Comité des Connétables seeking his assistance in creating a standard application form for honorary service. The application form would be completed in sufficient time prior to the nomination night for the necessary checks to be made.

The need for legislation

15. The consultation group gave most careful consideration to whether or not such significant changes to the manner in which Honorary officers were elected and States Police officers are appointed required the force of legislation. The consensus view was that the revised electoral process could be effected through an Attorney General's Directive, although the Attorney General is carrying out further investigations to ascertain whether legislation is required. Regarding the States of Jersey Police, any legislative changes could probably be effected as an Order made under the Police Force (Jersey) Law 1974. This course of action was endorsed by the Home Affairs Committee at its meeting on 17th May 2001.

Recommendation

16. The States will see that these proposals, when finalised, will go a long way towards rectifying problems highlighted by the Holland case. In the light of this report, it is for the States to decide whether a Committee of Inquiry, as proposed by Deputy Le Herissier, is justified.